

1 good luck in Tallahassee.

2 THE WITNESS: Thank you very much. I
3 appreciate it.

4 MR. HILL: Yes, sir.

5 THE WITNESS: And I will also tell you
6 that if there is anything else I can do or any
7 other aspect of this where you have questions
8 you would like to ask me, please feel free to
9 call me.

10 MR. HILL: Thank you. You've genuinely
11 been helpful. Thank you, sir.

12 GRAND JUROR: Thank you.

13 THE WITNESS: Thank you, folks.

14 (The witness left the Grand Jury room.)

15 MR. THULLBERY: Judge, if I could get you
16 to stand and raise your right hand?

17 Whereupon,

18 F. DENNIS ALVAREZ,
19 was called as a witness, and being duly sworn by Alfred
20 C. Thullbery, Jr., Assistant State Attorney, was
21 examined and testified as follows:

22 DIRECT EXAMINATION

23 BY MR. HILL:

24 Q Good morning, Judge.

25 A Good morning, Jerry. Excuse me. I'm

1 fighting a cold.

2 Q If you get to where you need something to
3 drink or whatnot, yell at us.

4 A Okay.

5 Q Would you state your full name for the
6 Grand Jury, please, sir?

7 A Frank Dennis Alvarez.

8 Q If any of you get to the point you can't
9 hear him, let us know also, okay? And you're obviously
10 a judge of the Thirteenth Judicial Circuit?

11 A That's correct.

12 Q You're a bit more than that. What is
13 your official title?

14 A Officially I'm the Chief Judge of the
15 Thirteenth Circuit.

16 Q And have been for how long?

17 A Since August 1, 1988.

18 Q And --

19 A Too long at times.

20 Q Is that like being a federal judge, it's
21 forever, or how does that work?

22 A No, Jerry, I thought it was based on
23 ability, but I guess my judges say, you know, nobody
24 else wants it so let the dumb keep it, so that's why I
25 kept it for so long. But it's been about 13 years.

1 Q Okay. Let's back up just a little bit.

2 A Okay.

3 Q You have been practicing how long, or a
4 member of the Bar, I should say?

5 A I've been a member of the Bar since
6 October of 1974.

7 Q Okay, sir. And you began your career as
8 a prosecutor; is that right?

9 A As a prosecutor under E.J. Salcines
10 through about 32 months. Sometime in 1976 I left the
11 State Attorney's Office and I went into private
12 practice.

13 Q Okay. And you practiced with?

14 A I practiced with Bob Bonanno, Bob Nutter,
15 and Jack Crooks.

16 Q And you remained in private practice how
17 long?

18 A Through -- I was elected to the county
19 bench in 1980.

20 Q You and I ran at the same time then.

21 A Ran at the same time, right.

22 Q I'm not going to tell them what I ran
23 for. All right, sir. So you've been on the bench
24 then --

25 A I took the bench January of 1981. I'm

1 finishing my twentieth on the bench.

2 Q Twentieth year, right. Wonderful.

3 A Right.

4 Q Can you tell us what your
5 responsibilities are as Chief Judge?

6 A Well, basically it's just to administer,
7 administer the circuit to make sure that the circuit
8 runs as efficient as possible, assigning judges to
9 divisions, being the liaison between the Thirteenth
10 Circuit and the Florida Supreme Court.

11 That's basically my duties; make sure
12 that the judges are at work doing their jobs, watching
13 their calendars, making sure that everybody's docket is
14 covered. Some people give me the authority of running
15 the jail, but I know the Sheriff runs the jail. But
16 that's one of -- that could be one of my duties is to
17 make sure that the jail is not overcrowded and things
18 of that matter.

19 Q You have the, not only the authority, but
20 the responsibility of assigning the judges to various
21 divisions?

22 A That's correct, that's one of the --
23 probably one of the toughest jobs that a Chief Judge
24 does is assigning judges to certain divisions.

25 The way we do it here is basically based

1 on seniority. Normally the judges that come in at the
2 end basically get what's left over. Normally they'll
3 end up in either Juvenile or Family Law. Those are not
4 divisions that judges want to serve, so normally that's
5 where they end up.

6 Most of the other judges who have been
7 here longer, their first choice is normally general
8 civil and sometimes criminal. But that's one of the
9 toughest things when you have two judges that come in
10 at the same time that have not been a county judge in
11 the past, which would be a tie breaker, is basically to
12 get them both together, pick a number or pick a straw
13 and assign them. One gets first choice, and the other
14 one gets what's left over.

15 Q Okay. How many circuit judges are there
16 in the Thirteenth?

17 A Right now we have -- well, we've got
18 positions. We have got 35 circuit judges and 14 county
19 judges. We have 49 judges. But we have three
20 vacancies that are being filled by the Governor's
21 office now, and one County Court vacancy, so we're
22 basically four judges short at this time.

23 Q Okay. What is your -- if you see a judge
24 not conducting themselves in an appropriate fashion,
25 that's pretty broad, I don't care if it's hours,

1 conduct, may be being verbally abusive, or any other
2 thing that, you know, is just not appropriate for one
3 of your judges to be doing, what authority do you have
4 to straighten that matter out?

5 A Well, basically my authority is roughly
6 the same authority as any other judge: You look at the
7 Canons. But being Chief Judge basically my -- what
8 we've done in the past and what I've learned from prior
9 Chief Judges, is that you try to sit down with the
10 judge, talk to the judge, say, you know, "I've got a
11 complaint you're coming in late, you're falling asleep,
12 you're being rude," things of that matter.

13 You try to go one-on-one. You handle it
14 in-house. Now, if it's a matter where a judge has
15 violated a law, okay, which I don't call inappropriate,
16 that's a criminal violation, if I ever became aware of
17 that, I had sufficient reason to believe that a judge
18 had violated the law, my responsibility would go first
19 to the State Attorney and/or the Hillsborough County
20 Sheriff's Office.

21 But other than that, any other
22 appropriate -- appropriate or inappropriate action that
23 a judge may be doing basically the way to handle it,
24 like most Chief Judges do, is that you meet one-on-one
25 one with the individual. And you try to find out what

1 the problem is, why they're coming in late, why they're
2 being rude.

3 And there's a lot of problems, you know.
4 They may be having problems at home, they may be sick,
5 they may not be feeling well, whatever. It's just
6 basically the same thing as being a manager of
7 different individuals that work for you. They've got
8 problems just like anybody else does. And we try to
9 resolve those problems when we first become aware of it
10 so it doesn't get any further.

11 If it keeps on, and the judge at that
12 point in time doesn't change that lifestyle, then they
13 leave me no other alternative but basically to go to
14 the JQC, which is the Judicial Qualifications
15 Commission.

16 Q You referred to the Canons. Will you
17 explain to the Grand Jury what you're referring to?

18 A There are seven Canons that basically
19 deal with the conduct of judges. And each Canon deals
20 with certain things. Some Canons deal that you cannot
21 use the influence of your office, let's say, to get
22 involved in charity, fundraiser. That's inappropriate.
23 You can't use the influence of your office basically
24 for any personal financial gain.

25 Some Canons deal with -- they prohibit

1 you from raising money. Some Canons prohibit you from
2 campaigning. So the Canons basically are the criteria
3 by which we have to -- that we act under. You know,
4 there are certain things that we can do and there are
5 certain things that we can't do. And the Canons are
6 basically are the areas that say what you can and what
7 you can't do.

8 They forbid us from, let's say, going to
9 political rallies. They deal with campaign financing
10 when you're running for office, where you can go, where
11 you can't go; what you can and what you can't do. So
12 it's basically like a conduct of conduct.

13 Q Do they deal, and I'm sorry I don't
14 recall the answer to this, specifically with a judge
15 raising funds on behalf of another candidate?

16 A Yes, there's a specific area that says
17 you should not be raising funds for any candidate other
18 than yourself. And basically as a judge you can't
19 raise funds on your own. When I run for re-election, I
20 get a finance committee, a group of people whose main
21 job would be to go out and raise funds for me. I
22 cannot do it directly.

23 And to be honest with you, that gets kind
24 of tough. A lot of times you find yourself, people
25 saying, "How can I help?" And during a campaign it's

1 pretty tough to say, "Well, you can send me a check."
2 You shouldn't say it, but, you know, those things
3 happen. It's not intentional, but that's -- you know,
4 those things happen.

5 But you should have raising funds for
6 yourself through a committee. It prohibits you from
7 raising funds for anybody else. That's one of the
8 Canons.

9 Q You have in the past been rumored to have
10 had some other political ambitions yourself?

11 A That's correct.

12 Q We're not calling you Mayor yet.

13 A Not yet.

14 Q We're not calling you State Attorney yet.

15 A Right.

16 Q Tell us, I want to go back to the real
17 date in question is July 27th, but that time frame.
18 There was a lot going on.

19 A Quite a bit.

20 Q Had you shown an interest in doing
21 something other than being a judge around that time?

22 A On July 13th, that's the day Harry Coe
23 committed suicide and passed away. I was recuperating
24 from knee replacement surgery. I had surgery on May
25 30th, so it was roughly six weeks.

1 When I got the call that Harry had passed
2 away, law enforcement came and picked me up and took me
3 out to the scene. Because under the statute when a
4 constitutional officer resigns, passes away, whatever,
5 in an emergency type situation the Chief Judge under
6 the statute has the authority to appoint a replacement
7 until the Governor acts. So they took me out to the
8 scene.

9 I talked to the Chief Assistant at the
10 time, Wayne Chalu, about that probably, first of all,
11 if he was interested in assuming the role until the
12 Governor had to act. He told me he was. And we got a
13 call from the Governor's office, and the Governor said,
14 "Well, go ahead. We have no objection to appointing
15 Wayne Chalu until we act. It will probably be in the
16 next 7 to 10 days. More than likely it will be Monday
17 or Tuesday of the following week." So I said, "Fine."

18 When that happened, I had numerous calls.
19 Numerous people had come to me and asked me if I would
20 be interested in becoming the State Attorney. And I
21 think it's been known not only in the legal community,
22 that the only two jobs that I would ever consider
23 leaving my position for would be State Attorney, which
24 is a job that I've always looked at and respected back
25 when I prosecuted, or possibly in the future to run for

1 Mayor of the City of Tampa after Mayor Greco.

2 So with all these things coming, I was
3 getting a lot of calls. But again, at that point in
4 time I -- it was too close to the surgery, too many
5 things were going on. And I said, "Yeah, it may be
6 something I would be interested in." So that's what
7 happened on that day, on July 13th. That's the day
8 that Harry passed away.

9 Basically things didn't get rolling until
10 the next day. I was not due back in the office
11 full-time until roughly the first or second week of
12 August because of the operation. But because of
13 everything that was going on I started basically
14 full-time on the 14th.

15 That's when the ball started rolling of
16 numerous people calling me about to consider the
17 appointment. Basically I said, "Well, if the Governor
18 wants to appoint, that's fine. I would definitely
19 consider it."

20 It had been the Governor's history that
21 they would appoint somebody as a caretaker. I made it
22 very clear that I would not be interested in being a
23 caretaker, that if the Governor would appoint me as
24 State Attorney, I would only take it that if I would
25 have the opportunity to run for it.

1 The election, the qualifying closed, was
2 set to close the following Friday at noontime. So
3 basically you're looking at a week to put a campaign
4 together. Numerous calls. That had happened. Finally
5 sometime Friday I get a call from the Governor's office
6 from the General Counsel that they had heard, they had
7 gotten calls, they had had visitors that I would be
8 interested in running.

9 And I talked to the Acting General
10 Counsel, and I said, "Yeah, I would." And he said,
11 "Well, the Governor is very interested, but he wanted
12 to hear it from you if you would be." I said, "Yeah,
13 but the only condition is, is that I will be given the
14 opportunity to run for it. I will not resign my job
15 just to be a caretaker. Because come January then I
16 have got to start looking for a new job."

17 So Mr. Jimenez said, "Judge, we don't see
18 that there's a problem." We got into some other
19 matters. We got into the matters about a, quote, "a
20 JQC investigation" that my name had been mentioned and
21 so forth.

22 And I talked to Mr. Jimenez, I gave him
23 the whole background on that. And that was a question
24 as to how I handled the Judge Ward incident. And he
25 says, "Well, they just wanted to talk to you about it,

1 this, that, and the other. We'll get back with you."

2 That Friday afternoon he got back with
3 me. He says, "Judge," he says, "I talked to the
4 Governor, he says he's elated that you're interested.
5 We want to make an appointment -- we want to make the
6 appointment Monday, Tuesday at the latest. We'll get
7 back with you."

8 So basically all day Tuesday was -- all
9 day Friday was just getting all these things in order.
10 I had gotten calls and had spoken to people from the
11 Governor's office that led me to believe that if I was
12 serious about the appointment that the job was mine.

13 We met with some people, I met with Judge
14 Padgett, who is the most senior judge, who if I would
15 resign as being Chief Judge, under the Rules of
16 Judicial Administration he would automatically become
17 Chief Judge until there was an election for the next
18 Chief Judge.

19 We met Friday, and I told him what the
20 plans were. He said, "Fine," he said, "but I'm not
21 interested in running for it. I'll just keep it until
22 the next -- until the election of the Chief Judge."

23 I felt so confident about the appointment
24 that I called Chief Justice Wells and advised the Chief
25 Justice that Friday afternoon that there was a

1 possibility that the Governor was going to appoint me
2 as the State Attorney. I wanted to advise him that
3 everything here was under control as far as somebody
4 taking over. So that's the way the process went.

5 Saturday the same thing; many phone
6 calls. But again, I was coming off of surgery. I was
7 starting to have doubts in my mind whether physically I
8 could handle a campaign for 30 days, put a campaign
9 together within a week, raise money, because there was
10 two individuals already in the Republican primary that
11 had already been working running since March that
12 raised \$80-\$90,000, and I knew it was going to be an
13 uphill battle. But that wasn't my concern. I was
14 concerned about whether physically I could handle it.

15 For you that don't know, back in 1980
16 after I got elected County Judge, I had a five-way
17 bypass heart surgery. Okay. Four-and-a-half years
18 later, because I refused to listen to my doctors, I had
19 a heart attack and they had to redo four of those five
20 grafts. So by the time I was 39 I'd had a heart attack
21 and had two bypass surgeries.

22 So before we did anything I called my
23 cardiologist. And we met that Sunday to review my
24 history with my eldest son, my daughter-in-law, and my
25 wife, to see if medically I would be able to handle the

1 job. And we went through the history. They said,
2 "Fine, Dennis, there's nothing there that I see. But
3 just in case, why don't we fit you on Monday morning
4 with a monitor. Let's monitor the heart and so forth."

5 So we did that Monday. Monday afternoon
6 Mr. Jimenez calls me again and he says, "Judge, we're
7 close to it. We want to make sure that nothing has
8 changed since Friday." I told him, "No." He says, "On
9 the JQC matter," he says, "we've talked to the Governor
10 about it. That does not seem to be a concern from the
11 Governor." So I said, "Fine." He says, "We'll call
12 you later."

13 Monday night I get home. And I wasn't
14 sure basically what I wanted to do. My interest in the
15 job had started to decrease. Had he offered me the job
16 Friday, without a doubt I would have taken it. But I
17 wasn't interested at all. It just started -- started
18 to lose interest in it.

19 But anyway, Monday night Mr. Jimenez
20 calls me at the house. He says, "Judge, the Governor
21 is ready to make the appointment. He wants to make the
22 appointment tomorrow at noontime. We're going to have
23 an FDLE agent get with you, call you that night or
24 first thing in the morning to do what they call a
25 Phase I, which is a quick background check."